

OPEN MEETING ITEM

COMMISSIONERS
GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS



ORIGINAL



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Executive Director

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ARIZONA CORPORATION COMMISSION

2011 OCT 20 P 2:05

DATE: OCTOBER 20, 2011

DOCKET NO.: W-02368A-11-0185

AZ CORP COMMISSION
DOCKET CONTROL

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane L. Rodda. The recommendation has been filed in the form of an Order on:

MIRABELL WATER COMPANY
(RATES)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

OCTOBER 31, 2011

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

NOVEMBER 8, 2011 and NOVEMBER 9, 2011

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

OCT 20 2011

DOCKETED BY	
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ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 GARY PIERCE - Chairman
4 BOB STUMP
5 SANDRA D. KENNEDY
6 PAUL NEWMAN
7 BRENDA BURNS

8 IN THE MATTER OF THE APPLICATION
9 OF MIRABELL WATER COMPANY FOR
10 A PERMANENT RATE INCREASE.

DOCKET NO. W-02368A-11-0185

DECISION NO. _____

11 **ORDER**

12 Open Meeting
13 November 8 and 9, 2011
14 Phoenix, Arizona

15 **BY THE COMMISSION:**

16 * * * * *

17 Having considered the entire record herein and being fully advised in the premises, the
18 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

19 **FINDINGS OF FACT**

20 1. Mirabell Water Company ("Mirabell" or "Company") provides water utility service to
21 approximately 57 metered customers in an area approximately 15 miles southwest of the City of
22 Tucson in Pima County, Arizona.

23 2. In Decision No. 71943 (November 1, 2010), the Commission authorized Mirabell to
24 obtain a five-year loan in the amount of \$10,243 from the Arizona Water Infrastructure Financing
25 Authority ("WIFA"), and approved an emergency surcharge to cover the debt service on the WIFA
26 loan. In that Decision, the Commission conditioned implementation of the surcharge on the Company
27 filing its Annual Reports for the Commission's Corporations Division for 2009 and 2010, obtaining a
28 Certificate of Good Standing from the Commission's Corporations Division; filing its Annual Report
with the Utilities Division for 2008; filing copies of executed loan documents; notifying its customers
of the surcharge; and posting a performance bond of \$10.00. The Decision also required the Company
to file a permanent rate application by April 30, 2011, using a December 31, 2010, test year.

1 3. On February 4, 2011, in Docket Nos. W-02368A-10-0280 and W 02368A-10-0286 (the
2 finance and emergency rate cases) the Commission's Utilities Division ("Staff") filed a Compliance
3 Memorandum verifying that the Company had complied with the requirements of Decision No.
4 71943, such that the emergency surcharge became effective pursuant to the terms of the Decision.

5 4. On April 29, 2011, Mirabell filed an application for permanent rates.

6 5. On May 31, 2011, Staff notified the Company that its application was sufficient and
7 classified the Company as a Class D utility.

8 6. On April 29, 2011, the Company filed an affidavit of mailing indicating that it had
9 mailed notice of the rate application to its customers on the same date.

10 7. The Commission received a petition containing 49 names and two separate
11 communications from Mirabell customers opposing the increase.

12 8. On August 16, 2011, Staff filed a Staff Report, recommending the rates and charges
13 contained therein.

14 9. On August 25, 2011, Mirabell filed Comments to the Staff Report. The Company did
15 not disagree with Staff's recommended revenue requirement, but as discussed in greater detail below,
16 expressed concern with Staff's recommended rate design, provided additional information about
17 amounts owed to its management company, and proposed a temporary surcharge to repay accrued
18 accounts payable.

19 10. On August 26, 2011, Staff filed a Notice of Errata that corrected its recommended rates
20 and charges.

21 11. By Procedural Order dated September 14, 2011, Staff was ordered to respond to
22 Mirabell's Comments, the time clock for a final order under A.A.C. R14-2-103 was suspended due to
23 the Company's request for a surcharge and the parties were ordered to make any procedural
24 recommendations, including whether they desired a hearing.

25 12. On October 3, 2011, Staff filed a Response to Mirabell's Comments. Staff continues to
26 recommend the rates and charges reflected in its Staff Report, as corrected, and recommends denying
27 the requested surcharge. Staff did not believe a hearing is necessary to resolve the dispute, but would
28 not object if the Company requested one.

1 13. Mirabell did not file additional Comments or request a hearing.

2 14. Mirabell's permanent rates were authorized in Decision No. 68233 (October 25, 2005).

3 15. Mirabell's system consists of one well with a production capacity of 50 gallons per
4 minute ("GPM"), 35,000 gallons of storage capacity, one 2,000 gallon pressure tank, a booster pump
5 station and a distribution system. There are no fire flow requirements for the system. Mirabell has two
6 emergency interconnections with the City of Tucson's system. In April 2011, Mirabell hired
7 Southwest Utility Management ("SUM") to operate the system.¹

8 16. Staff calculated the water loss for the Company's system in 2010 to be 14.85 percent,
9 and 6.55 percent for the period January through May 2011. Staff states that non-account water should
10 be 10 percent or less, and never more than 15 percent. The Company indicated to Staff that the
11 historic water loss for the system may be due to inaccurate and inconsistent data collection.²

12 17. Mirabell is located in the Tucson Active Management Area ("AMA"), and Staff reports
13 that ADWR has determined that Mirabell is in compliance with ADWR requirements governing water
14 providers and/or community water systems.³

15 18. The Arizona Department of Environmental Quality ("ADEQ") has determined that
16 Mirabell is in compliance with ADEQ requirements and is delivering water that meets the water
17 quality standards required by A.A.C., Title 18, Chapter 4.⁴

18 19. Mirabell has approved cross connection and curtailment tariffs.

19 20. Staff has determined that Mirabell has adequate storage and well production to serve its
20 existing customers and reasonable growth.⁵

21 21. At the date of the Staff Report, the Commission Utilities Division records showed no
22 outstanding compliance issues, and as of that time, Mirabell was in good standing with the
23 Corporations Division. Staff's investigation in this matter indicates that Mirabell had submitted an
24 Arizona Department of Revenue tax clearance application form dated April 26, 2011, but as of the
25 date of the Staff Report, had not received its "certificate of compliance letter of good standing;" and

26 _____
27 ¹ Staff Engineering Report at 1 (attached to Staff Report).

² Staff Engineering Report at 3-4.

³ Staff Engineering Report at 5.

⁴ Staff Engineering Report at 4-5.

⁵ Staff Engineering Report at 2.

1 also that Mirabell has not paid the second half of its 2009 property tax liability or its full 2010
2 property tax liability.⁶

3 22. In its application, the Company indicated test year revenues of \$55,384, and expenses
4 of \$50,052, resulting in operating income of \$5,332, which based on the Company-reported original
5 cost rate base ("OCRB") of \$18,494, yields a rate of return of 28.83 percent.

6 23. The Company's application included its proposed revenue increase as part of test year
7 figures. Staff removed these pro forma adjusts to determine actual test year revenues and expenses.
8 According to Staff's adjusted results, in the test year, the Company had revenues of \$32,951, and
9 expenses of \$44,521, resulting in an operating loss of \$11,570, a negative return on Staff's adjusted
10 OCRB of \$22,348.

11 24. The Company states that it is requesting its rate increase due to an increase in the cost
12 of operating an aging water system and the cost to professionally manage the system in order to stay in
13 compliance with the various agencies and laws. The Company requests operating revenues of \$55,384,
14 which after operating expenses of \$50,032, would yield operating income of \$5,332, a 28.84 percent
15 rate of return on OCRB of \$18,494. The Company's request is an increase of \$22,433, or 68.1
16 percent, over Staff's adjusted test year revenues.

17 25. Staff also recommends total operating revenues of \$55,384, an increase of \$22,433, or
18 68.1 percent over test year revenues. Staff recommends total adjusted operating expenses of \$47,249,
19 which would yield operating income of \$8,135, a 36.4 percent rate of return on an adjusted OCRB of
20 \$22,348.

21 26. Mirabell's current and proposed rates and charges, and Staff's recommended rates and
22 charges are as follows:

	Present Rates	<u>Proposed Rates</u>	
		<u>Company</u>	<u>Staff</u>
23 <u>MONTHLY USAGE CHARGE:</u>			
24 5/8" x 3/4" Meter	NT ⁷	\$23.00	\$20.00
25 3/4" Meter	\$22.00	34.50	30.00
26 1" Meter	35.00	57.00	50.00
27 1-1/2" Meter	62.00	115.00	100.00
28 2" Meter	105.00	184.00	160.00

⁶ Staff Report at 5. Information filed with the Company's Comments to the Staff Report show 2010 Property Taxes owing of \$3,031.73.

⁷ NT = No Tariff

3" Meter	NT	368.00	320.00
4" Meter	NT	575.00	500.00
6" Meter	NT	1,159.00	1,000.00

COMMODITY RATES:

(Per 1,000 gallons)

3/4-inch meter

0 to 4,000 gallons	\$2.00	N/A	N/A
4,001 to 12,000 gallons	\$2.75	N/A	N/A
Over 12,000 gallons	\$3.50	N/A	N/A

All other Meter Sizes

0 to 12,000 gallons	\$2.75	N/A	N/A
Over 12,000 gallons	\$3.50	N/A	N/A

5/8 x 3/4 and 3/4 inch meter

0 to 3,000 gallons	N/A	\$3.20	N/A
3,001 to 10,000 gallons	N/A	\$4.75	N/A
Over 10,000 gallons	N/A	\$6.00	N/A

5/8 x 3/4 and 3/4-inch meter

0 to 2,000 gallons	N/A	N/A	\$2.50
2,001 to 8,000 gallons	N/A	N/A	\$4.35
Over 8,000 gallons	N/A	N/A	\$8.00

All other Meter sizes

1 to 10,000 gallons	N/A	\$4.75	\$4.35
Over 10,000 gallons	N/A	\$6.00	\$8.00

SERVICE LINE AND METER INSTALLATION CHARGES:

(Refundable pursuant to A.A.C. R14-2-405)

	Company Proposed				Staff Recommended		
	Current Rates	Service Line Charges	Meter Charges	Total Charges	Service Line Charges	Meter Charges	Total Charges
5/8" x 3/4" Meter	N/A	\$430.00	\$130.00	\$560.00	\$430.00	\$130.00	\$560.00
3/4" Meter	\$480.00	430.00	230.00	660.00	430.00	230.00	660.00
1" Meter	575.00	480.00	290.00	770.00	480.00	290.00	770.00
1-1/2" Meter	780.00	535.00	500.00	1,035.00	535.00	500.00	1,035.00
2" Turbine Meter	1,340.00	815.00	1,020.00	1,835.00	815.00	1,020.00	1,835.00
2" Compound Meter	N/A	815.00	1,865.00	2,680.00	815.00	1,865.00	2,680.00
3" Turbine Meter	N/A	1,030.00	1,645.00	2,675.00	1,030.00	1,645.00	2,675.00
3" Compound Meter	N/A	1,150.00	2,520.00	3,670.00	1,150.00	2,520.00	3,670.00
4" Turbine Meter	N/A	1,460.00	2,620.00	4,080.00	1,460.00	2,620.00	4,080.00
4" Compound Meter	N/A	1,640.00	3,595.00	5,235.00	1,640.00	3,595.00	5,235.00
6" Turbine Meter	N/A	2,180.00	4,975.00	7,155.00	2,180.00	4,975.00	7,155.00
6" Compound Meter	N/A	2,300.00	6,870.00	9,170.00	2,300.00	6,870.00	9,170.00
Over 6" Meter	N/A	N/A	N/A	N/A	Actual cost	Actual Cost	Actual Cost

<u>SERVICE CHARGES:</u>	<u>Current</u>	<u>Company Proposed</u>	<u>Staff Proposed</u>
Establishment	\$25.00	\$25.00	\$25.00
Establishment (After Hours)	35.00	35.00	NT
Reconnection (Delinquent)	25.00	35.00	30.00
Reconnection (Delinquent After Hours)	NT	40.00	NT
Meter Test (If Correct)	40.00	40.00	40.00
Deposit	(a)	(a)	(a)
Deposit Interest per annum	(a)	(a)	(a)
Re-establishment (Within 12 Months)	(b)	(b)	(b)
NSF Check	25.00	25.00	25.00
Deferred Payment - per month	1.0%	1.5%	1.5%
Meter Re-read (If Correct)	15.00	25.00	20.00
Late Payment Charge - per month	NT	1.5%	1.5%
Service Charge (After Hours)	N/A	N/A	35.00

Monthly Service Charge for Fire Sprinkler:

4" or smaller	\$0.00	\$0.00	(c)
6 inch	\$0.00	\$0.00	(c)
8 inch	\$0.00	\$0.00	(c)
10 inch	\$0.00	\$0.00	(c)
Larger than 10 inch	\$0.00	\$0.00	(c)

- (a) Per Commission rule A.A.C. R14-2-403.B.
 (b) Per Rule R14-2-403.D. Monthly Minimum times the number of months off the system.
 (c) 2.00% of monthly minimum for a comparable size meter connection but no less than \$10.00 per month. The service for the fire sprinklers is only applicable for service lines separate and distinct from the primary water service line.

Rate Base

27. Staff's adjustments increased the Company's proposed rate base by \$3,854, from \$18,494 to \$22,348. The Company did not include a working capital allowance. Staff's sole adjustment to the Company's rate base was to calculate a cash working capital allowance using the formula method.⁸

28. Staff's adjustment to rate base is reasonable. A cash working capital allowance is designed to allow a small company to meet day-to-day operating costs by bridging the gap between when expenditures are required to be made and the time when collections are received. Small utilities (Class D and smaller) typically calculate a cash working capital allowance using the formula method.

29. Based on the forgoing, Mirabell's OCRB is \$22,348. The Company did not request a

⁸ The formula equals one-eighth of the operating expenses less depreciation, taxes, purchased power and purchased water expenses plus one twenty-fourth of purchased power and purchased water expense.

1 Reconstruction Cost New Rate Base, thus, its Fair Value Rate Base ("FVRB") is equivalent to its
 2 OCRB, or \$22,348.

3 **Operating Income**

4 30. Staff's adjustments to operating revenue resulted in a net decrease of \$22,433, in total
 5 test year revenue from \$55,384 to \$32,951. Staff increased test year metered water revenue by \$41
 6 using the billing determinants provided by the Company, and removed \$22,474 in metered water
 7 revenue that the Company had improperly included as a pro forma adjustment to reflect its proposed
 8 revenue increase.

9 31. Staff's adjustments are appropriate and reasonably necessary to reflect test year
 10 revenues.

11 32. Staff's adjustments to test year operating expenses resulted in a net decrease of \$5,531,
 12 from \$50,052 to \$44,521. Staff's adjustments include:

- 13 (a) Decreasing Purchased Power Expense by \$80, from \$10,526 to \$10,446 to
 14 reflect the removal of an out of the test year expense.
- 15 (b) Decreasing Office Supplies and Expense by \$2,857, from \$3,357 to \$500. Staff
 16 states that it is difficult to estimate the Company's Office Expenses going
 17 forward now that the Company has hired a contract operator, and that the
 18 Company should be required to prove its office supplies expenses in any future
 19 rate case.
- 20 (c) Decreasing Outside Services Expense by \$853, from \$15,253 to \$14,400, to
 21 reflect the SUM fee going forward. Staff also removed \$853 in prior
 22 contractors' expense.
- 23 (d) Decreasing Water Testing Expense by \$216, from \$1,078 to \$862. This amount
 24 reflects the annual water testing costs determined and reported in Staff's
 25 Engineering Report attached to the Staff Report.
- 26 (e) Decreasing Insurance Expense by \$200, from \$1,465 to \$1,265, to reflect the
 27 updated and documented amount of the Company's general liability insurance
 28 policy.
- (f) Decreasing Regulatory Commission Expense by \$409, to \$0, to reflect Staff
 moving \$216 to Miscellaneous Expenses, and removing \$193 in out-of-test year
 expense.
- (g) Increasing Miscellaneous Expense by \$716, from \$93 to \$809, to reflect the
 transfer of \$216 from Regulatory Commission Expense and adding \$500 in
 supportable and documented expenses.
- (h) Increasing Depreciation Expense by \$733, from \$3,454 to \$4,187, to reflect the
 application of Staff's recommended depreciation rates to plant balances.

- (i) Decreasing Taxes Other than Income by \$468, from \$468 to \$0, to remove sales tax paid by customers, which is a pass-through tax and should not be reflected as an expense for rate making purposes.
- (j) Decreasing Property Tax Expense by \$525, from \$3,061 to \$2,536, by applying Staff's calculated amount using a modified version of the Arizona Department of Revenue's property tax method.
- (k) Decreasing Income Tax Expense by \$1,371, from \$1,371 to \$0. Staff states that it removed this expense because the Company did not owe income tax for the test year.⁹

33. In its Comments to the Staff Report, Mirabell states that it does not agree with some of Staff's adjustments, but it did not specify which ones, and did not provide evidence to refute Staff's adjustments. The Company states that it believes it can meet on-going expenses under Staff's recommended revenue level.¹⁰

34. The Company did not offer evidence to refute any of Staff's adjustments to test year revenues or expenses. We find that Staff's adjustments are reasonable and should be adopted.

35. Consequently, in the test year, we find that Mirabell had an operating loss of \$11,570, on total revenues of \$32,951, and adjusted test year expenses of \$44,521.

Revenue Requirement

36. Staff states that Mirabell's small rate base of only \$22,348, makes it difficult for Staff to utilize a rate of return analysis to calculate a revenue requirement or reasonable rates. Thus, Staff also analyzed cash flow to determine its recommended revenue requirement.¹¹

37. The Company requested revenues of \$55,384, which yielded operating income of \$5,332, a 23.8 percent return on FVRB, and an operating margin of 9.63 percent. Staff recommended the same revenue requirement of \$55,384. Based on adjusted expenses of \$47,249,¹² Staff's recommendations result in an operating income of \$8,135, for a 36.4 percent rate of return on FVRB, and an operating margin of 14.69 percent.¹³ Staff believes that this revenue level provides the Company with adequate cash flow to meet its annual operating expenses, maintain its aging water system, make payments on the Commission-approved WIFA loan, and fund contingencies.¹⁴

⁹ Staff calculated an Income Tax Expense based on its recommended rates going forward of \$2,152.

¹⁰ Response to Staff Report at 1.

¹¹ Staff Report at 8.

¹² Under Staff's proposed revenue, Operating Expenses include \$37,799 for Operation and Maintenance, \$4,187 for Depreciation, \$3,111 for Property and Other Taxes, and \$2,152 for Income Taxes. Staff Reprt at BCA-1.

¹³ The rate of return on FVRB would be 36.4 percent.

¹⁴ Staff Report at 8.

38. Presently, the Company has two Commission-approved long-term debt obligations with WIFA. The first, a ten-year amortizing loan in the original amount of \$15,000, was approved in Decision No. 62977 (November 2, 2000). This loan is scheduled to be paid off in December 2011, and Staff excluded it from its analysis. The second WIFA loan is a five-year amortizing loan in the amount of \$10,243, which was approved in Decision No. 71943. Staff's pro forma analysis indicates that Staff's recommended revenue level, and a fully drawn \$10,243, five-year amortizing loan at 1.575 percent, results in a pro forma Debt Service Coverage ("DSC") of 6.79.¹⁵ Staff states that the pro forma DSC shows that Mirabell would have adequate cash flow to meet all obligations including the authorized debt.

39. The parties agree that total revenues of \$55,384 are sufficient to meet Mirabell's ongoing operational needs, debt service, and contingencies. We accept Staff's recommended adjusted test year expenses of \$32,951, which includes Depreciation Expense of \$4,187. Consequently, the revenue recommended by the parties results in a positive cash flow, before debt service, of \$12,322.¹⁶ After principal repayment and interest expense on the WIFA loan, totaling \$2,132,¹⁷ the Company would have an annual cash flow of \$10,190.¹⁸ Based on the evidence presented in this docket, we find that the recommended total revenue to be reasonable and we concur with the parties' revenue recommendations.

Requested Surcharge

40. In its Comments to the Staff Report, Mirabell claims that as of August 24, 2011, it had \$16,542 in outstanding accounts payable. Mirabell states that in March 2011, the then-existing managers left the Company with a system in poor repair, and with an outage situation when they knew that SUM would be taking over management on April 1, 2011. Mirabell states that SUM acted to ameliorate the outage situation, even though they were not yet under contract, and billed Mirabell. SUM entered into the contract on the condition that the electrical panel be repaired because it was a

¹⁵ DSC represents the number of times internally generated cash will cover required principal and interest payments on short-term and long-term debt. A DSC greater than 1.0 indicates that operating cash flow is sufficient to cover debt obligations. A DSC less than 1.0 means that debt service obligations cannot be met by cash generated from operations and that another source of funds is needed to avoid default.

¹⁶ 8,135 + 4,187.

¹⁷ Staff Report at BCA-6.

¹⁸ 12,322 - 2,132.

hazard to field personnel. According to Mirabell, SUM paid the contractor, and continued to wait for its own payment, as the existing rates did not support the payments owed to SUM. Even with the rate increase, Mirabell claims that it will not be able to pay the amounts owed to SUM in a reasonable period of time. Mirabell is seeking to implement a surcharge to recover the amounts owned to SUM for the work done to correct the March 2011 outages before SUM was under contract, and the SUM management fees for April, May, June and July, 2011.

41. In order to pay down the outstanding accounts payable to SUM, Mirabell proposes a 16-month \$10.00 temporary surcharge calculated as follows:

<u>Date</u>	<u>No.</u>	<u>Name</u>	<u>Invoice Amount</u>
April 11, 2011	4250	Southwestern Utility Management	\$3,864.64
May 20, 2011	4281	Southwestern Utility Management	1,387.50
June 9, 2011	4330	Southwestern Utility Management	1,250.00
July 8, 2011	4362	Southwestern Utility Management	1,377.50
August 8, 2011	4405	Southwestern Utility Management	1,275.00
Total not recoverable in current or proposed rates			\$ 9,154.64
Number of customers			57
Amount per customer			\$ 160.61
Recovery Period in Months			16
Monthly amount			\$ 10.04
Proposed 16-month temporary surcharge			\$ 10.00

42. Staff recommends denying the requested surcharge because it seeks to recover post-test year operating expenses. Staff states that the Commission typically does not authorize the recovery of operating expenses incurred outside of the test year. Staff explains that the purpose of a test year is to establish a baseline relationship between rate base and operating income, and that adjustments are made to accurately reflect the cost of providing service during a "normal" year in order to set rates on a prospective basis. Staff asserts that its review of the invoices shows that most of the \$9,154.64 is for routine management fees, and that Staff's recommended revenue and rates take account of the management fees on a going-forward basis.

43. The majority of the \$9,154 that the Company seeks to recover in the form of the surcharge is for SUM management fees. The Company did not have a contract with SUM during the

1 test year, and although the recommended rates take account of the known SUM management fees on a
 2 going-forward basis, the new rates approved in this order do not collect revenues to cover expenses
 3 incurred before they are implemented. Prior to the implementation of this order, the increased
 4 management fees are not included in current rates.

5 44. Decision No. 71943 (the emergency rate case) details a number of reporting
 6 deficiencies and ineffective managerial oversight.¹⁹ At that time, the Commission admonished the
 7 Company and Mr. Freedman, its owner, that the Company must comply with Commission Orders and
 8 that if the Company did not operate in accordance with statutory and regulatory requirements, the
 9 Commission could appoint an interim operator and impose fines and penalties. In response, Mr.
 10 Freedman hired SUM, a professional and experienced management company, which we believe is a
 11 positive move by Mirabell's owner. As manager of the Company, SUM is now in the difficult
 12 position of determining whether to pay itself, or other vendors. Both the Company and ratepayers
 13 have, and will, benefit from SUM's professional management. We want to encourage Mirabell to
 14 provide professional management. Thus, we find that payment of the \$9,154 in accrued management
 15 fees incurred and documented in the Company's Response to the Staff Report, should be split 50/50
 16 between ratepayers and the shareholder. Consequently, we authorize a temporary \$5.00 per month per
 17 meter surcharge for the purpose of reimbursing SUM for the customers' share of the incurred, but
 18 unpaid management fees.²⁰ We also believe that the shareholder should bear some responsibility for
 19 past managerial decisions that contributed to the current financial condition of the Company, and
 20 therefore, Mr. Freedman must also make payments to SUM to reimburse it for his share of the accrued
 21 management fees.

22 **Rate Design**

23 45. The Company's proposed rates would increase the typical residential 3/4-inch meter
 24 residential bill with a median usage of 5,081 gallons from \$32.97 (not including the WIFA surcharge)
 25 to \$54.88, an increase of \$21.91, or 66.5 percent. Currently, consumers pay a \$2.77 per month WIFA
 26 surcharge. That surcharge will terminate upon the implementation of new rates. Including the
 27

28 ¹⁹ Decision No. 71943 at 11-14.

²⁰ The ratepayers share of the fifty/fifty split would be approximately \$4,577.

1 surcharge in the bill analysis, the median 3/4-inch meter residential total bill would increase from
2 \$35.74 to \$54.88, an increase of \$19.14, or 53.6 percent. The addition of the \$5.00 temporary
3 management fee surcharge would increase the median residential bill another \$5.00, to \$59.88, an
4 increase of \$24.14, or 67.5 percent.

5 46. Staff's recommended rates would increase the typical residential 3/4-inch meter
6 residential bill with a median usage of 5,081 gallons from \$32.97 (not including the WIFA surcharge)
7 to \$48.40, an increase of \$15.43, or 46.8 percent. Including the current surcharge in the analysis, under
8 Staff's recommended rates, the median residential total bill would increase from \$35.74 to \$48.40, an
9 increase of \$12.66, or 35.4 percent. The addition of the \$5.00 temporary management fee surcharge
10 would increase the median residential bill another \$5.00, to \$53.40, an increase of \$17.66, or 50.8
11 percent.

12 47. Mirabell believes that the amount of conservation that would occur as a result of Staff's
13 proposed highest tier, would severely affect revenues because of the small revenue base. The
14 Company believes that its proposed rates would better achieve a balance between the goals of revenue
15 stability and water conservation.²¹

16 48. The Company does not propose to change the Establishment Charge (After Hours) of
17 \$35, but proposed to add a Reconnect (Delinquent After Hours) Charge of \$40. Staff agrees that an
18 additional fee for service provided after normal business hours is appropriate when such service is
19 provided at the customer's request or for the customer's convenience. Staff states that such charge
20 compensates the utility for additional expenses incurred from providing after-hours service. Staff
21 believes that it is appropriate to apply an after-hours service charge in addition to the charge for any
22 utility service provided after hours at the customer's request or for the customer's convenience.
23 Therefore, Staff recommends the elimination of both the \$35 Establishment Charge (After Hours) and
24 the Company's proposed \$40 Reconnect (Delinquent After Hours) Charge and instead, recommends
25 the creation of a separate \$35 after-hours service charge.

26 49. In addition, the Company proposed to change the Reconnection (Delinquent) charge
27

28 ²¹ Response to Staff Report at 2.

1 from \$25 to \$35. Staff believes that \$30 is a reasonable charge for the service. The Company
2 proposed to change the Meter Re-read (If Correct) Charge from \$15 to \$25, but Staff believes that \$20
3 is a reasonable charge for this service.

4 50. Staff concurs with the Company's proposal to change the Deferred Payment Charge-
5 per month from 1 percent to 1.5 percent, and the implementation of a Late Payment Charge-per month
6 of 1.5 percent.

7 51. The Company requested changes to its Service Line and Meter Installation Charges.
8 Staff recommends service line and meter installation charges based on its analysis of costs as
9 discussed in the Engineering Report attached to the Staff Report. Staff believes that because at times,
10 the Company may install meters on existing service lines, it is advantageous to have separate service
11 line and meter installation charges.

12 52. There are no disagreements between the parties on Service Line and Meter Installation
13 Charges. We find Staff's recommended changes to the proposed Service Charges tariff to be
14 reasonable and that they should be adopted.

15 53. It is difficult to predict how customers will change their consumption patterns in
16 response to proposed rates. Both parties proposed tiered rates that include three tiers for the small
17 residential meters, and both rate designs should promote conservation. They both purport to generate
18 the same revenue, but Staff's includes a lower commodity rate in the first two blocks. In this case, we
19 find Staff's design to be the more reasonable and fair as it represents a more gradual shift and lessens
20 the rate shock on smaller users. Thus, we find Staff's recommended rates and charges are reasonable
21 and should be adopted.

22 54. In 2008, ADWR added a new regulatory program for the ADWR Third Management
23 Plan for AMAs. The new program, called Modified Non-Per Capita Conservation Program ("Modified
24 NPCCP"), addresses large municipal water providers (cities, towns and private water companies
25 serving more than 250 acre-feet per year) and was developed in conjunction with stakeholders from all
26 AMAs. Participation in the program is required for all large municipal water providers that do not
27 have a Designation of Assured Water Supply and that are not regulated as a large untreated water
28 provider or an institutional provider. The Modified NPCCP is a performance-based program that

1 requires participating providers to implement water conservation measures that result in water use
2 efficiency in their service areas. A water provider regulated under the program must implement a
3 required Public Education Program and choose one or more additional best management practices
4 ("BMPs") based on its size, as defined by its total number of water service connections. The provider
5 must select the additional BMPs from the list included in the Modified NPCCP Program. The BMPs
6 are a mix of technical, policy, and information conservation efforts. Engineering Staff states that
7 although the implementation of the Modified NPCCP is required of large municipal water providers
8 within an AMA, the Commission has previously adopted the BMPs for implementation by
9 Commission-regulated small and large water companies.

10 55. In addition to its recommended rates and charges, Staff recommends the following:

- 11 (a) That the Company file with Docket Control, a tariff schedule of its new rates
12 and charges within 30 days after the effective date of this Decision
- 13 (b) That the WIFA surcharge authorized in Decision No. 71943 be discontinued
14 when the rates approved in this case become effective.
- 15 (c) That the Company use the depreciation rates delineated in Exhibit 6 of the
16 Engineering Report attached to the Staff Report.
- 17 (d) That the Company file with Docket Control, as a compliance item in this
18 Docket within 90 days of the effective date of a Decision in this proceeding, at
19 least three BMPs in the form of tariffs that substantially conform to the
20 templates created by Staff, for the Commission's review and consideration.
- 21 (e) That the Company be required to coordinate the reading of its well meter and
22 individual customer meters on a monthly basis and report this data in its
23 Commission Annual Report for the year ending 2011. Staff further recommends
24 that if the reported water loss in the Annual Report is greater than 10 percent,
25 the Company shall prepare a report containing a detailed analysis and plan to
26 reduce water loss to less than 10 percent. If the Company believes it is not cost
27 effective to reduce the water loss to less than 10 percent, it should submit a
28 detailed cost benefit analysis to support its opinion. The water loss reduction
report or the detailed analysis, whichever is submitted, shall be docketed as a
compliance item no later than June 30, 2012.

24 56. Staff's recommendations are reasonable and should be adopted.

25 57. In addition, because an allowance for the property tax expense of Mirabell is included
26 in the Company's rates and will be collected from its customers, the Commission seeks assurances
27 from the Company that any taxes collected from ratepayers have been remitted to the appropriate
28 taxing authority. It has come to the Commission's attention that a number of water companies have

1 been unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,
 2 some for as many as twenty years. It is reasonable, therefore, that as a preventive measure Mirabell
 3 should annually file, as part of its annual report, an affidavit with the Utilities Division attesting that
 4 the Company is current in paying its property taxes in Arizona.

5 CONCLUSIONS OF LAW

6 1. Mirabell is a public service corporation pursuant to Article XV of the Arizona
 7 Constitution and A.R.S. §§ 40-250 and 40-251.

8 2. The Commission has jurisdiction over Mirabell and the subject matter of the
 9 application.

10 3. Notice of the proceeding was provided in conformance with law.

11 4. Mirabell's FVRB is \$22,348.

12 5. The rates, charges and conditions of service approved herein are just and reasonable
 13 and in the public interest.

14 ORDER

15 IT IS THEREFORE ORDERED that Mirabell Water Company is hereby authorized and
 16 directed to file with the Commission, as a compliance item in this Docket, on or before November 30,
 17 2011, a revised tariff setting forth the following rates and charges:

18 MONTHLY USAGE CHARGE:

19 5/8" x 3/4" Meter	\$20.00
20 3/4" Meter	30.00
21 1" Meter	50.00
22 1-1/2" Meter	100.00
2" Meter	160.00
3" Meter	320.00
4" Meter	500.00
6" Meter	1,000.00

23 COMMODITY RATES:

24 Per 1,000 gallons

25 5/8 x 3/4 and 3/4-inch meters

26 1 to 2,000 gallons	\$2.50
27 2,001 to 8,000 gallons	\$4.35
Over 8,000 gallons	\$8.00

All other Meter sizes

1 to 10,000 gallons	\$4.35
Over 10,000 gallons	\$8.00

Temporary management fee surcharge \$5.00
 – per month all meter sizes – from
 December 2011 through April 2013

SERVICE LINE AND METER INSTALLATION CHARGES:

(Refundable pursuant to A.A.C. R14-2-405)	<u>Service Line Charges</u>	<u>Meter Charges</u>	<u>Total Charges</u>
5/8" x 3/4" Meter	\$430.00	\$130.00	\$560.00
3/4" Meter	430.00	230.00	660.00
1" Meter	480.00	290.00	770.00
1-1/2" Meter	535.00	500.00	1,035.00
2" Turbine Meter	815.00	1,020.00	1,835.00
2" Compound Meter	815.00	1,865.00	2,680.00
3" Turbine Meter	1,030.00	1,645.00	2,675.00
3" Compound Meter	1,150.00	2,520.00	3,670.00
4" Turbine Meter	1,460.00	2,620.00	4,080.00
4" Compound Meter	1,640.00	3,595.00	5,235.00
6" Turbine Meter	2,180.00	4,975.00	7,155.00
6" Compound Meter	2,300.00	6,870.00	9,170.00
Over 6" Meters	Actual Costs	Actual Costs	Actual Costs

SERVICE CHARGES:

Establishment	\$25.00
Reconnection (Delinquent)	30.00
Meter Test (If Correct)	40.00
Deposit	(a)
Deposit Interest per annum	(a)
Re-establishment (Within 12 Months)	(b)
NSF Check	25.00
Deferred Payment - per month	1.5%
Meter Reread (If Correct)	20.00
Late Payment Charge per month	1.5%
Service Charge (After Hours)	35.00

MONTHLY SERVICE CHARGE FOR FIRE SPRINKLER:

4-inch or smaller	(c)
6-inch	(c)
8-inch	(c)
10-inch	(c)
Larger than 10-inch	(c)

- (a) Per Commission rule A.A.C. R14-2-403.B.
 (b) Per Rule R14-2-403.D. Monthly Minimum times the number of months off the system.
 (c) 2.00% of monthly minimum for a comparable size meter connection but no less than \$10.00 per month. The service for the fire sprinklers is only applicable for service lines separate and distinct from the primary water service line.

IT IS FURTHER ORDERED that the rates and charges approved herein shall be effective for all usage on and after December 1, 2011.

1 IT IS FURTHER ORDERED that the WIFA loan surcharge approved in Decision No. 71943,
2 shall be discontinued upon the effective date of the rates and charges approved herein.

3 IT IS FURTHER ORDERED that Mirabell Water Company may implement a temporary
4 surcharge of \$5.00 per month per meter for the purpose of paying down half of the accrued accounts
5 payable owed to Southwest Utility Management for work performed by Southwest Utility
6 Management between April 2011 and August 2011, such surcharge to become effective December 1,
7 2011, and continue until collected or April 30, 2013, whichever is sooner.

8 IT IS FURTHER ORDERED that Mirabell Water Company's shareholder shall be
9 responsible for paying Southwest Utility Management for the other half of the accrued accounts
10 receivable owed to Southwest Utility Management for the work performed between April 2011 and
11 August 2011.

12 IT IS FURTHER ORDERED that Mirabell Water Company shall notify its customers of the
13 revised schedules of rates and charges authorized herein by means of an insert, in a form acceptable
14 to Staff, included in its next regularly scheduled billing or as a separate mailing to be completed no
15 later than twenty (20) days after the effective date of this Order.

16 IT IS FURTHER ORDERED that Mirabell Water Company use the depreciation rates
17 delineated in Exhibit 6 of the Engineering Report attached to the Staff Report filed in this Docket.

18 IT IS FURTHER ORDERED that Mirabell Water Company shall file with Docket Control, as
19 a compliance item in this Docket within 90 days of the effective date of a Decision in this proceeding,
20 at least three best management practices in the form of tariffs that substantially conform to the
21 templates created by Staff, for the Commission's review and consideration.

22 IT IS FURTHER ORDERED that Mirabell Water Company shall coordinate the reading of its
23 well meter and individual customer meters on a monthly basis and report this data in its Commission
24 Annual Report for the year ending 2011; and if the reported water loss in the Annual Report is greater
25 than 10 percent, Mirabell Water Company shall prepare a report containing a detailed analysis and
26 plan to reduce water loss to less than 10 percent. If Mirabell Water Company believes it is not cost
27 effective to reduce the water loss to less than 10 percent, it should submit a detailed cost benefit
28 analysis to support its opinion. The water loss reduction report or the detailed analysis, whichever is

submitted, shall be docketed as a compliance item in this Docket no later than June 30, 2012.

IT IS FURTHER ORDERED that Mirabell Water Company shall file, as part of its annual report, an affidavit with the Utilities Division attesting that it is current in paying its property taxes in Arizona. Because there is indication that this company is delinquent in paying its property taxes, Mirabell Water Company shall also include a description of efforts made to cure delinquent property taxes, or arrangements made to pay property tax arrearages.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN	COMMISSIONER
COMMISSIONER	COMMISSIONER
COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2011.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR:

MIRABELL WATER COMPANY

2 DOCKET NO.:

W-02368A-11-0185

3
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